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*Memorandum*

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** James R. Helmer  
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**SUBJECT:** TAXICAB COMMISSION

**DATE:** 04-28-08

Approved

Date 4/28/08

### INFORMATION

On November 20, 2007, the City Council directed staff to develop the elements of a taxicab commission, including the proposed structure, scope of authority, cost estimates and cost recovery mechanism for consideration. This memorandum responds to that direction.

### BACKGROUND

The Taxicab Advisory Team (TAT) was established by the City Council on January 30, 2001. The TAT was created to serve as the oversight, dispute resolution and advisory body to address industry and regulatory issues. The group was balanced in its representation of affected stakeholders in order to ensure that all perspectives were being considered. Over time the TAT evolved into a less formal body, meetings were held more frequently, on a monthly rather than quarterly basis, and each of the stakeholder groups continued to be represented. Discussion and decision making focused on becoming more consensus oriented rather than one driven by Roberts Rules of Order and simple majority rule. Most of the recommendations implemented as part of the new Taxicab Service Model were processed through the TAT in this manner.

However, when the TAT was faced with issues where stakeholder interests were not aligned, or where staff positions differed from those held by other stakeholders, the TAT process often broke down. This has regularly placed the Transportation & Environment Committee (T&E) and City Council in the position of final arbiter on complicated taxicab service model issues and disagreements among the various factions of the taxicab industry. As a result, staff was directed to develop the elements of a taxicab commission, including the proposed structure, scope of authority, cost estimates and cost recovery mechanism for consideration by the City Council.

### ANALYSIS

This section of the report describes various taxicab commission models used in other cities, and the suggested authority, structure, staffing and funding for a taxicab commission in San Jose.

**Taxicab Commission Models in other Cities**

Various US cities use taxicab commissions to provide regulatory oversight and advisory input to local elected bodies on taxicab matters. The table below provides a sample of cities with taxicab commissions, including the major characteristics of each commission such as the number of commissioners and their term length, the appointment authority, whether the commissions have final regulatory authority or are advisory to the elected body, and some of the areas of oversight.

<b>City</b>	<b>No. of Commissioners, Length of Term</b>	<b>Appointment Authority</b>	<b>Authority of Commission</b>	<b>Sample Areas of Oversight</b>
San Francisco	Seven  Two years	Mayor  No City Council consent required	Regulatory and Advisory	Customer service Driver training Dispatch, Safety Permit fees Medallions
St Louis	Nine  Two years	Mayor and County Executive  No City Council consent required	Regulatory	Customer service Licensing Inspection Enforcement Passenger rates and fees
Washington DC	Nine  Three years	Mayor  No City Council consent required	Regulatory	Customer service Safety Rules and regulations Licensing and permits Passenger rates and fees
New York	Nine  Seven years	Mayor  City Council consent required	Regulatory	Customer service Safety Licensing Insurance Passenger rates and fees
Los Angeles	Five  Four years	Mayor  City Council consent required	Regulatory and Advisory	Customer service Inspections Investigations Rules and regulations Passenger rates and fees

The taxicab commissions in New York, Washington DC and St Louis serve as the final regulatory authority for all taxicab matters. In San Francisco and Los Angeles most regulatory authority resides with the taxicab commissions, with the exceptions being meter rates charged to

passengers and the authority to franchise taxicab companies respectively. Authority is delegated to the commission's through the various city charters, ordinances, and codes, and in the case of St Louis through state legislation.

The makeup of the respective commissions varies both in terms of the number of commissioners (e.g. five to nine) and from which constituencies they are appointed. Both San Francisco and Los Angeles appoint representatives from the senior/disabled community and the hospitality industry to their commissions. The remaining commissioners in San Francisco are drawn from neighborhood groups, the taxicab industry, labor organizations and the general public. The remaining commissioners in Los Angeles represent the Airport Department and taxicab industry. Washington D.C. has four members appointed from the general public and three members from the taxicab industry. New York appoints five members, one each from the boroughs in New York City, but no members from the taxicab industry are eligible for appointment to the commission to avoid actual and perceived conflict of interest. St Louis appoints five members from the general public and four members from the taxicab industry.

Direct staff support to the commissions range from two full time staff in Los Angeles to up to six full time staff in San Francisco. The direct staff support activities includes development of commission agendas, meeting recordings, minutes and policy research. In reviewing the agendas and minutes of taxicab commissions in other cities, it is apparent they have become involved in detailed administrative matters, well below the policy level. Commissions formed to focus on a specific area can have a tendency to focus below the policy level on administrative matters. It is important that the focus and authority of a taxicab commission be maintained at the policy level.

### **Framework and Structure of the Taxicab Regulatory System**

The main considerations in creating a taxicab commission include the authority of the commission, the structure and representation of the commission, the required staff support, and the funding of a commission, particularly in light of the City's General Fund structural budget deficit. This next section of the report details staff's perspectives related to these items. If a taxicab commission is to be created it should have adequate authority and the proper structure to effectively facilitate and regulate the taxicab industry at a policy level, and not to create an additional bureaucratic step in a process that would still have most matters decided by the City Council. It is important to recognize that a significant amount of administrative and legal work would need to be completed by staff from the Administration and the City Attorney's Office to define the specific authority and processes that would be delegated. Updates to the Municipal Code, adoption of resolutions, and the development of a taxicab commission charter or similar guiding document would need to be developed. Specific descriptions of which entity would have authority over various policy, regulatory and fee matters would also need development before the City Council can act on creating a new commission.

#### **1a. Authority of a San Jose Taxicab Commission**

For a taxicab commission to be effective, it must have adequate authority to develop well coordinated taxicab policy, regulations, and fees. Without adequate authority, a commission will

not have the tools to help achieve taxicab service goals and maintain a balanced regulatory environment. Staff suggests the commission have authority on the following matters at a policy level only, and not at an administrative or operational level:

- Citywide taxicab policy
- Standards related to industry safety including vehicles, drivers and passengers
- Standards related to customer service including training
- Standards related to vehicles including age and mileage limits, and environmental impact
- Company requirements such as accurate trip data reporting
- Transferability of permits
- Taxicab industry fees and taxicab passenger meter rates
- Assume the role of the Taxicab Advisory Team for receiving industry/stakeholder input.

For a commission to be effective it needs to understand its authority and be provided with appropriate guidance to achieve the City's goals related to taxicab matters. The commission must exercise effective collective judgment in balancing the following four principles:

1. Needs of the public to receive reliable, convenient, safe, and appropriately priced service
2. Needs of the taxicab industry to reasonably conduct private commerce without undue regulatory burden or taxpayer subsidy
3. Ensuring an equitable regulatory environment among companies and between companies and drivers so that all industry stakeholders have an equal opportunity to succeed
4. Focus on policy level matters and not administrative or operational level details.

If the City Council decided to proceed with creating a taxicab commission, staff suggests that clear direction and guidance be provided to a commission on how to balance and exercise its authority in a manner consistent with these principles.

#### 1b. Authority of the Airport Commission related to Taxicabs

The Mayor and City Council, in its actions on November 20, 2007, added to the authority of the Airport Commission by providing final oversight on implementation of Airport taxicab policy and regulatory matters. With that direction, the Airport Commission will have authority on the following matters:

- Airport taxicab policy
- Standards related to customer service that are Airport specific
- Allocation of Airport taxicab company and driver permits
- Company and driver requirements such as accurate trip data reporting
- Taxicab industry fees related to the Airport.

#### 1c. Authority of the San Jose City Council related to Taxicabs

Creating a taxicab commission with the authority described in this report is entering new

territory for the City in terms of delegation of authority to a commission. Most commissions in the City operate primarily in an advisory capacity to the City Council. In this instance, it is contemplated the Taxicab and Airport Commissions be given specific policy, regulatory and fee authority. To ensure adequate checks and balances are maintained, staff recommends that the following authority be reiterated and retained by the City Council:

- To amend grants of authority to the Taxicab or Airport Commissions
- To establish caps on the number of taxicab companies, drivers and vehicles
- Creation of staff positions to serve the taxicab commission or regulate the industry
- Appropriation of funds for commission operations and regulatory activities
- To be the appeal body for commission decisions if the City Manager deems the actions of the commission to be inconsistent with the direction and principles established.

#### 1d. Authority of Professional Staff

Staff in the Police, Airport and Transportation Departments will retain the previous authority granted through the City Charter, Municipal Code and that delegated by the City Manager in the administration of the City's Taxicab Program. Staff will administer the following activities:

- Administration of company/vehicle licenses, permits, inspections, and background checks
- Administration of insurance requirements with consultation of the City's Risk Manager
- Administration of taxicab driver permits, testing, and background checks
- Administration of contracts for various taxicab service matters
- Enforcement of license, permit, inspection, and testing requirements, rules and regulations
- Formulation of taxicab policy and fiscal matters for review and approval by the City Council, Taxicab Commission and Airport Commission as appropriate.

Given the limited staff resources, it is important that the administration of existing taxicab matters not be subject to excessive oversight by a Taxicab Commission or the Airport Commission, and that these commissions keep a focus on policy level matters.

#### 2. Structure of a Taxicab Commission

The structure of taxicab commissions varies in other jurisdictions. The number of taxicab commissioners ranges from five to nine members. The representation varies as well with some jurisdictions appointing members of the hospitality industry, the taxicab industry, the senior/disabled community, neighborhood groups, labor organizations, city department officials and members of general public. The length of term ranges from two years to seven years. In each case the Mayor has the authority to appoint the members, and in some instances, the City Council has consent or approval authority.

If the City Council decided to proceed with creating a taxicab commission, staff suggests a five member taxicab commission nominated by the Mayor, with confirmation by the City Council. The terms should be staggered with three members being appointed to a four year term with an

opportunity to be re-appointed to an additional four year term. The remaining two members should initially be appointed to a two year term with an opportunity to be re-appointed to an additional four year term. All future terms would be for four years. Staff suggests that nominees be sought from a wide variety of constituencies, including those that commissions in other cities draw from, such as the hospitality industry.

One reason the City Council is considering a taxicab commission is that the Taxicab Advisory Team has had challenges generating consensus and having its members, particularly taxicab industry representatives, participate in an objective manner. For this reason, staff does not suggest that any members from the taxicab industry be appointed to the commission. The most important qualities to consider in selecting commissioners are to identify members of the community committed to balancing the needs of the public to receive reliable, convenient, safe, and appropriately priced service, with the needs of the taxicab industry to reasonably conduct private commerce without undue regulatory burden or taxpayer subsidy, while ensuring an equitable environment among companies and between companies and drivers.

### 3. Staffing Requirements for a Taxicab Commission

In order to adequately staff a taxicab commission, dedicated staff support is necessary. Staff suggests the creation of one Administrative Officer level position to support the information, policy, technical and financial management needs of the taxicab commission and one staff support level position to prepare meeting agendas and notices, posting electronic information, recording, transcribing and distributing meeting minutes, and maintaining compliance with the Ralph M. Brown Act and San Jose sunshine requirements. These two staff members would coordinate their efforts with staff in departments responsible for taxicab activities. It is suggested that the City Manager's Office be provided with the authority to appoint the staff to the commission to ensure consistent, professional support enabling this new commission to develop and stabilize, and to provide the authority through the City Manager's Office to properly coordinate and direct staff in the departments working on taxicab matters.

### 4. Funding of a Taxicab Commission

Staff has reported for many years that the cost to regulate the taxicab industry far exceeds the fees that are generated by the industry. The current year projected shortfall is in excess of \$800,000. The \$800,000 shortfall is based upon estimated costs of \$2.46 million for the Airport, Police and Transportation Department activities and revenues of \$1.65 million raised from various taxes and fees (e.g. business license, trip, permit, inspection, etc).

The costs associated with supporting a taxicab commission would add to this shortfall without the collection of additional revenue. As described previously, two positions would be needed to effectively meet the requirements associated with staffing a taxicab commission. The anticipated budget needed to staff and support a Commission is estimated in the \$200,000 to \$250,000 range annually, which likely includes some amount of Citywide overhead. To fund a budget in this range, staff recommends that funding be secured through new or modified taxicab industry fees for both the taxicab companies and drivers. The precise amount and manner in which the fee

would be levied must be determined. If the fees are allocated equally between companies and drivers the average annual fee per driver would be \$250 (based on 500 permitted drivers). Two alternatives for the allocation of fees for licensed companies are as follows: 1) Equal allocation of the cost among all licensed taxicab companies resulting in a standard \$9,000 annual fee based on 14 licensed taxicab companies; 2) Size based allocation of the cost to companies based upon the number of permitted drivers and licensed vehicles maintained by each company with the typical annual fee ranging between \$3,750 for company with 15 licensed vehicles and 15 permitted drivers to \$50,000 for a company with 200 vehicles and 200 drivers.

It is noted that this fee increase would only accommodate cost recovery to staff the taxicab commission and would not address the current funding shortfall created by the cost to regulate the industry versus the revenue raised, and would be in addition to the current fee structure. For context purposes, the current fee structure includes: a one time business license tax and initial company licensing fee of \$9,412, an annual company license renewal fee of \$1,587, an annual taxicab vehicle inspection fee of \$83, a one time taxicab driver permit test fee of \$83, an every other year annual driver permit renewal fee of \$208, a monthly \$240 fee for Taxi San Jose services, an Airport trip fee that is added to the passenger flag drop, and a fee to maintain Downtown taxicab stands of \$65 per month per space split among all the companies. Staff suggests direction be given to create a multi year strategy for achieving full cost recovery, and reducing the subsidy to the taxicab industry for consideration in 2009-2010 City budget.

### **POLICY ALTERNATIVES**

The development of a taxicab commission will be a lengthy and costly process for the City. If the City Council decided to proceed with the creation of a taxicab commission an additional on-going expense to staff and support the Commission in the range of \$200,000 to \$250,000 would be required. The consultant that performed the Taxicab Service Model Study in 2004 recommended that the City not create a taxicab commission due to size and characteristics of the taxicab industry in San Jose. Essentially, with San Jose not being a significant taxicab market, going to the expense of creating and staffing a commission could be considered an over reaction to normal taxicab industry challenges, and not a good use of limited resources.

An alternative for the City Council to consider is to replace the Taxicab Advisory Team with a Taxicab Oversight Panel that would consist of a representative from the Mayor's Office, the Airport Commission, and the City Manager's Office, with staff support from the affected Departments. The Panel would meet with the taxicab industry on a quarterly basis to receive feedback on the state of the taxicab industry and to discuss important policy and regulatory matters. The Panel could then advise the Mayor and City Manager if a Council Committee or the full City Council should be engaged on important industry or regulatory matters. The advantage of this alternative is that no additional administrative costs or regulatory fees would be necessary, and the taxicab industry could perceive the Panel to be a more neutral body than the staff from Transportation, Police and Airport that currently support the Taxicab Advisory Team.

**PUBLIC OUTREACH/INTEREST**

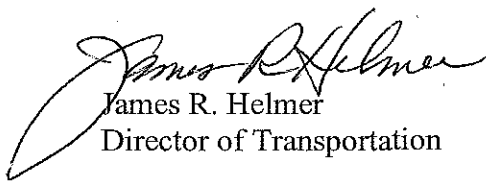
The Airport Commission discussed the formation of a taxicab commission at its February 4, 2008 meeting. The main feedback received by the Airport Commission was their interest in having authority over Airport taxicab matters. The contents of this memorandum are consistent with that feedback. After staff receives further direction from City Council, and during the process of formulating any specific proposals for a taxicab commission, staff will seek additional feedback from taxicab industry stakeholders.

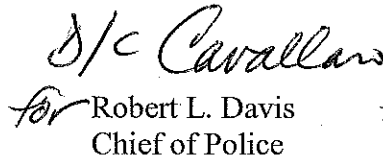
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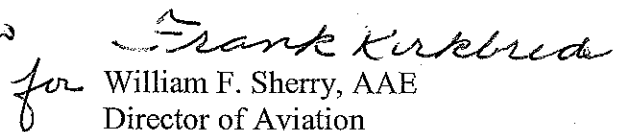
This report has been coordinated with the City Attorney's Office.

**CONCLUSION AND NEXT STEPS**

This memorandum responds to City Council direction to develop the elements of a Taxicab Commission, including the proposed structure, scope of authority, cost estimates and a cost recovery mechanism for consideration by the City Council. As described earlier in this report, the development of a taxicab commission will require a significant amount of administrative and legal work up front to define the specific authority and processes that would be delegated. Updates to the Municipal Code, adoption of resolutions, and the development of a taxicab commission charter or similar guiding document would need to be developed. Specific descriptions of which entity would have authority over various policy, regulatory and fee matters would also need development before the City Council can act on creating a new commission. Staff estimates that it will take approximately six months to develop the necessary updates and analysis with a report back to the Transportation and Environment Committee during the Fall 2008 Workplan. The Administration is seeking direction as to whether the City Council desires to proceed with the next steps to develop a taxicab commission or would like to further explore the creation of a Taxicab Oversight Panel at no additional cost.

  
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